

REMARKS

The non-elected claims have been cancelled without prejudice to applicant's right to file an appropriate continuing application directed thereto.

Claims 1-9 were rejected on the grounds of obviousness type double patenting and under 35 USC 103 over Shetty '449 in view of Gilbert and Akamatsu. Both rejections are respectfully traversed.

The Shetty patent teaches a multilayer coextruded film. The Examiner is correct that the reference does not show that the multilayer structure has uniaxial oriented structure with the tensile strength, thickness or width as set forth in the instant claims. Accordingly, there is reliance on the secondary references.

To overcome the deficiency that Shetty does not show the ultimate tensile at break recited in instant claims 1 and 2, the Examiner has relied on the Gilbert reference and indicated that it suggests the tensile strength is about 6.7-7.2 kgf because it teaches uniaxially orienting a coextruded film and because the tensile value is "optimizable". However the Gilbert patent teaches that the reason for stretching is to achieve the desired relationship between the various indexes of refraction and thus the optical properties of the multilayer film (col. 6, lines 43-45). What tensile value is achieved is not a relevant consideration in this reference, and indeed, no mention of tensile strength was noted in the reference.

In contrast to Gilbert, the multilayer film both in Shetty and the present invention already has the appropriate difference in index of refraction to achieve iridescence before any processing and the reason for stretching the Gilbert film is not present in either Shetty or the present invention. Since the Gilbert reason for stretching is not applicable to Shetty, the assertion that it is obvious to stretch Shetty and achieve a strength value not even considered by Gilbert must clearly be the application of hindsight. There must be some reason or motivation to stretch the film of Shetty, and Gilbert simply fails to provide such suggestion or motivation. While it may under some

circumstances be obvious to optimize a property, there still must be some reason that one skilled in the art would try to optimize that property. The references in this case do not provide any reason to optimize ultimate tensile at break. Accordingly, one skilled in the art would not optimize that property.

The Akamatsu reference has been cited only to with regard to claim 9 and therefore clearly does not cure any deficiencies in Shetty and Gilbert.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. According, the Examiner is respectfully requested to pass this application to issue.

Dated: July 3, 2003

Respectfully submitted,

By 
Edward A. Meilman

Registration No.: 24,735
DICKSTEIN SHAPIRO MORIN &
OSHINSKY LLP
1177 Avenue of the Americas
41st Floor
New York, New York 10036-2714
(212) 835-1400
Attorney for Applicant